

RCH/AXB/LZ  
F. #2022R01030

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

NANCY MARKS,

Defendant.

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FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ OCT 05 2023 ★  
LONG ISLAND OFFICE

ELEMENTS SHEET

23-CR-197 (JS) (AYS)

Defendant NANCY MARKS intends to waive indictment and, pursuant to a Plea Agreement, enter a plea of guilty to a one-count information charging her with conspiracy to commit one or more offenses against the United States, in violation of 18 U.S.C. § 371. The elements of that offense are as follows:

**I. Conspiracy to Defraud the United States (18 U.S.C. § 371)<sup>1</sup>**

First, the existence of an agreement between two or more persons to commit the unlawful acts specified in the information, to wit: wire fraud, making false statements, falsification of a record or document, and aggravated identity theft;

Second, the defendant knowingly engaged in the conspiracy intending to commit those offenses (described in greater detail below); and

Third, the commission of an overt act by one or more members of the conspiracy in furtherance of the conspiracy.

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<sup>1</sup> United States v. Allen, 788 F.3d 61, 70 (2d Cir. 2015) (quoting United States v. Reyes, 302 F.3d 48, 53 (2d Cir. 2002)).

The offenses that were the objects of the conspiracy charged in the information have the following elements:

**A. Conspiratorial Object #1: Wire Fraud (18 U.S.C. § 1343)<sup>2</sup>**

First, that there was a scheme or artifice to defraud or to obtain money or property by materially false and fraudulent pretenses, representations or promises;

Second, that the defendant knowingly and willfully participated in the scheme or artifice to defraud, with knowledge of its fraudulent nature and with specific intent to defraud, or that she knowingly and intentionally aided and abetted others in the scheme; and

Third, that in execution of that scheme, the defendant used or caused the use of interstate wires as specified in the information.

**B. Conspiratorial Object #2: False Statements (18 U.S.C. § 1001(a)(2))<sup>3</sup>**

First, that on or about the dates specified in the information, the defendant made a statement or representation;

Second, that the statement or representation was material;

Third, that the statement or representation was false, fictitious or fraudulent;

Fourth, that the false, fictitious or fraudulent statement was made knowingly and willfully; and

Fifth, that the statement or representation pertained to a matter within the jurisdiction of the government of the United States.

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<sup>2</sup> 2 Modern Federal Jury Instructions—Criminal ¶ 44.01, Instruction 44-3.

<sup>3</sup> Id. at ¶ 36.01, Instr. 36-9.

C. **Conspiratorial Object #3: Falsification of a Record or Document (18 U.S.C. § 1519)<sup>4</sup>**

First, that the defendant falsified, concealed, covered up, or made a false entry in any record, document, or object;

Second, the defendant acted with the intent to impede, obstruct, or influence the investigation or proper administration of any matter or in contemplation of or relation to any such matter; and

Third, that the investigation or proper administration of a matter was within the jurisdiction of a department or agency of the United States Government.

D. **Conspiratorial Object #4: Aggravated Identity Theft (18 U.S.C. § 1028A)<sup>5</sup>**

First, that the defendant used or possessed a means of identification of another person;

Second, that the defendant used or possessed the means of identification during and in relation to the commission of another specified offense, namely, wire fraud and making

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<sup>4</sup> Id. at ¶ 46.13, Instr. 46-79.

<sup>5</sup> Id. at ¶ 39A.10, Instr. 39A-51.

false statements; and

Third, that the defendant acted without lawful authority.

Respectfully submitted,

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